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8 **IN THE UNITED STATES DISTRICT COURT**  
9 **FOR THE WESTERN DISTRICT OF WASHINGTON**  
10 **AT SEATTLE**

11 MICHAEL MAYFIELD, on behalf of  
12 himself and all others similarly situated,

13 Plaintiffs,

14 v.

15 ACE AMERICAN INSURANCE  
16 COMPANY,

17 Defendant.

NO.

COMPLAINT FOR DAMAGES AND  
DECLARATORY RELIEF – CLASS  
ACTION

18 **I. PARTIES**

19 1. Plaintiff Michael Mayfield is an individual residing in King County,  
20 Washington.

21 2. At all times relevant hereto, Plaintiff Mayfield was a licensed airline pilot  
22 employed by Delta Air Lines, Inc.

23 3. Defendant ACE American Insurance Company (hereinafter “ACE” or “ACE  
24 Insurance”) is an insurance company licensed to conduct business in the State of  
25 Washington, incorporated and with its principal place of business in the State of  
26 Pennsylvania.

1           4.     In 2016, ACE's parent company, ACE Limited, purchased Chubb  
2 Corporation and became the world's largest publicly traded property and casualty insurance  
3 company. After the purchase was complete, the name CHUBB was adopted for the new  
4 combined corporate entity.

5           5.     At all times relevant hereto, Defendant ACE and/or CHUBB provided  
6 insurance coverages to individuals, including the employees of Delta Airlines, as described  
7 below.  
8

9           6.     Administrative Concepts, Inc. (hereinafter "ACI") is a Pennsylvania  
10 corporation that at all times relevant hereto was acting for Defendant ACE and/or CHUBB as  
11 its "authorized representative" and/or "authorized agent" to administer and/or pay out claims  
12 for insurance benefits, including but not limited to the claim made by Plaintiff Mayfield  
13 under the Policy as described below.  
14

## 15                                   **II. JURISDICTION & VENUE**

16           7.     This Court has subject matter jurisdiction under 28 U.S.C. § 1331(a)(1) as this  
17 matter involves questions of federal law, under 29 U.S.C. § 1132(f), and under 28 U.S.C. §  
18 1332 because Plaintiff Mayfield and Defendant ACE are citizens of different states and the  
19 amount in controversy exceeds \$75,000, exclusive of interest and costs.

20           8.     This Court has personal jurisdiction over the parties to this action because  
21 Plaintiff's claims arise from ACE's transaction of business within this judicial district.  
22

23           9.     Venue is proper in the Western District of Washington under 28 U.S.C.  
24 § 1391(b)(2) because a substantial part of the events giving rise to the claim occurred within  
25 this judicial district.  
26

### III. FACTS

#### A. The Policy

10. Plaintiff Mayfield is, and at all relevant times was an insured under a “Group Accident” insurance policy issued by Defendant ACE for Delta Airlines, Inc. (“Delta”), under policy number ADD NO4983233 (“the Policy”).

11. The Policy provided insurance coverage benefits to employees of Delta, as part of a benefit plan authorized under the federal Employee Retirement Income Security Act of 1974 (“ERISA”).

12. The Delta employees eligible for coverage under the Policy include pilots, flight attendants, ground crew members, and office and clerical staff in the United States, Puerto Rico, Canada, the United Kingdom, the Bahamas, and Bermuda.

13. The Policy provided Mr. Mayfield coverage if Mr. Mayfield or his wife, Alison Mayfield (“Mrs. Mayfield”) suffered a “Covered Loss.” One of the Covered Losses under the Policy was the accidental loss of life.

14. Under the heading of “Claims Provisions”, the Policy contains the following language (hereinafter referred to as the “Interest Clause”):

**Claims Information.** Within 15 working days of receipt of proof of loss, We will mail Covered Person a letter or notice explaining why a claim or any part has not been paid. Also, the letter or notice will include a list of any information needed to process the claim. When We have received this additional information, We have 15 working days to either pay or deny the claim. We will explain Our decision to the Covered Person.

If We do not meet all of the above conditions, We will pay the Covered Person 18% interest per year on the benefits due. This applies only to benefits due under the Policy for which the above procedure has not been followed.

1           15.     The “Summary Plan Description” for the Policy, which ERISA requires be  
2     made available to all covered employees, including Mr. Mayfield, did not mention the  
3     Interest Clause, or provide any general notice that interest would be owed on delayed  
4     payments of benefits under the Policy.

5     **B.     Mrs. Mayfield’s Death and Defendant ACE’s Review of the Claim**  
6

7           16.     On or about April 21, 2016, Mrs. Mayfield suffered sudden cardiac death at  
8     her home, as a result of the interaction of medications she was taking as prescribed by her  
9     doctors.

10          17.     On or about August 8, 2016, Mr. Mayfield faxed a Proof of Claim form to  
11     Defendant ACE for monetary benefits payable under the Policy due to Mrs. Mayfield’s  
12     accidental death.

13          18.     On or about August 9, 2016, ACI sent Mr. Mayfield a letter stating that “[w]e  
14     are the benefits administrator for the Accidental Death ... policy provided by Delta Airlines,  
15     underwritten by ACE American Insurance Company”, and acknowledging receipt of his  
16     Proof of Claim.  
17

18          19.     In its August 9, 2016 letter, ACI informed Mr. Mayfield that it had already  
19     sent out requests for some of Mrs. Mayfield’s medical records and for the autopsy report and  
20     toxicology testing results.  
21

22          20.     ACI also requested that Mr. Mayfield complete a HIPAA release to allow ACI  
23     to obtain additional medical records to review his claim, and that he provide a list of all  
24     medications and their dosages that Mrs. Mayfield was taking at the time of her death.

25          21.     On or about August 23, 2016, Mr. Mayfield faxed ACI the list of Mrs.  
26     Mayfield’s medication and their dosages and the completed and signed HIPAA release.

1           22.     ACI used the HIPAA release provided by Mr. Mayfield to request additional  
2 records from three of Mrs. Mayfield's medical providers.

3           23.     Between September of 2016 and January of 2017, ACI received all the  
4 medical records it had requested for Mrs. Mayfield. ACI received the last set of medical  
5 records it had requested on January 5, 2017.

6           24.     Under the Interest Clause of the Policy quoted above, ACE had 15 working  
7 days from January 5, 2017, or until January 26, 2017, to either pay or deny Mr. Mayfield's  
8 claim for the accidental death benefits.

9           25.     Under said Policy terms, when ACE failed to meet that condition, interest at  
10 the rate of 18% per year began to accrue on the benefits due and owing to Mr. Mayfield.  
11

12       **C.     ACE Received an Outside Medical Review and then Denied the Claim**

13           26.     At some point in the review process, ACI sent some of Mrs. Mayfield's  
14 medical records to a purported outside and "independent medical reviewer."  
15

16           27.     On or about February 26, 2107, this reviewer sent ACI a two-page report.

17           28.     In a letter dated March 20, 2017, ACI, acting for ACE, denied Mr. Mayfield's  
18 claim on the stated grounds that the level of prescription pain medication found in Mrs.  
19 Mayfield's system was outside of the therapeutic range, and therefore not taken as prescribed  
20 by her doctor.

21           29.     The denial letter of March 20, 2017 made no mention of a medical review or  
22 that ACE was relying on such a review to make the denial. Neither ACE nor ACI ever  
23 identified the medical review as "additional information" needed to process the claim in any  
24 letter or notice sent to Mr. Mayfield under the terms of the Interest Clause.  
25  
26

1           30.     ACE's denial came 225 days after ACI had received Mr. Mayfield's Proof of  
2 Claim, and 74 days after ACE had received the last of Mrs. Mayfield's medical records it had  
3 requested.

4     **D.     Mr. Mayfield's Appeals, and Payment of the Claim**

5           31.     On May 11, 2017, Mr. Mayfield wrote to ACI requesting copies of all  
6 documents, records, and information that they had supporting the denial of the claim.  
7

8           32.     On or about June 16, 2017, ACI provided Mr. Mayfield with copies of the  
9 medical records of Mrs. Mayfield they had received, as well as "a copy of the Independent  
10 Medical Review that was performed on the records submitted."

11           33.     The enclosed "independent medical review" consisted of two mismatched,  
12 poorly reproduced pages indicating that the author concluded, based on review of certain  
13 select records, that Mrs. Mayfield's death was due to a "self-inflicted" overdose from taking  
14 medication beyond what she was prescribed.  
15

16           34.     This "independent review" was unsigned and did not indicate in any way the  
17 identity of the author.

18           35.     On July 13, 2017, Mr. Mayfield wrote to ACI requesting a complete, signed  
19 copy of the medical reviewer's report, and the author's identity.  
20

21           36.     On or about July 31, 2017, ACI responded by letter stating that Mr. Mayfield  
22 had received the complete report and refusing his request for the reviewer's identity because  
23 such information "is kept confidential."

24           37.     On September 13, 2017, counsel for Mr. Mayfield sent ACI his appeal of the  
25 claim denial, asserting that the "independent medical review" was unsupported by medical  
26

1 science, and that ACE's refusal to disclose the identity of the medical reviewer was  
2 improper.

3 38. On September 25, 2017, ACI, acting for ACE, denied Mr. Mayfield's appeal  
4 based upon the two-page medical review.

5 39. On March 22, 2018, counsel for Mr. Mayfield submitted a second level  
6 appeal of ACE's denial, supported by expert testimony that refuted the bases and conclusions  
7 of the medical review and that explained Mrs. Mayfield had in fact died after taking her  
8 medications at the prescribed and therapeutic dosages.

9 40. On April 11, 2018, ACI acknowledged by letter its receipt of the second  
10 appeal and stated it was being forwarded to the ERISA appeals committee at CHUBB.

11 41. On April 24, 2018, counsel for Mr. Mayfield wrote to ACI and requested a  
12 full set of the "plan documents," namely the Policy applicable to Mr. Mayfield's claim for  
13 accidental death benefits.

14 42. On or about May 1, 2018, CHUBB sent a letter to Mr. Mayfield's counsel  
15 stating that its ERISA Review committee had determined that Mr. Mayfield's claim was  
16 payable.

17 43. On or about May 4, 2018, Mr. Mayfield received payment of his claim in the  
18 amount of \$1,229,250.

19 44. CHUBB's payment of Mr. Mayfield's claim came 634 days after ACE first  
20 received Mr. Mayfield's Proof of Loss.

21 45. CHUBB's payment came 463 days after January 26, 2017, which was the 15th  
22 business day after ACI received the last set of medical records that it had requested and  
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1 identified in its notice to Mr. Mayfield, and the date when interest at 18% per year began to  
2 accrue on the delayed payment under the Interest Clause of the Policy.

3 **E. The Denial of Interest Owed Under the Policy**

4 46. On May 2, 2018, counsel for Mr. Mayfield emailed ACI requesting more  
5 information about the payment of claim benefits, including how much interest would be  
6 provided for the delayed payment.  
7

8 47. On May 3, 2018 ACI responded saying that the request for interest had been  
9 forwarded to CHUBB for “further consideration.”

10 48. On May 11, 2018, counsel for Mr. Mayfield again asked ACI to provide a  
11 complete set of the Policy documents, as previously requested by letter on April 24, 2018.

12 49. On or about May 16, 2018, CHUBB responded by letter stating that there was  
13 no basis for a payment of interest and its adjudication of Mr. Mayfield’s claim complied with  
14 the ERISA claims procedures. CHUBB’s letter did not mention the Interest Clause.  
15

16 50. On May 24, 2018, counsel for Mr. Mayfield wrote to CHUBB detailing the  
17 numerous violations of ERISA claims procedures that had occurred in the handling of Mr.  
18 Mayfield’s claim, including the ongoing failure to provide Mr. Mayfield with a complete  
19 copy of the underlying Policy and other plan documents.

20 51. The May 24, 2018 letter repeated Mr. Mayfield’s request for interest owing on  
21 the delayed payment.  
22

23 52. On or about June 13, 2018, ACI sent counsel for Mr. Mayfield a copy of the  
24 Policy which contained the Interest Clause quoted above.

25 53. On or about June 18, 2018 CHUBB responded to the May 24, 2018 letter by  
26 repeating its assertion that it had met the requirements of ERISA, and that no interest was



1 due to Mr. Mayfield. CHUBB's letter did not mention the Interest Clause.

2 **IV. CLASS ALLEGATIONS**

3 54. Plaintiff brings this action on behalf of himself and all others similarly  
4 situated pursuant to Fed. R. Civ. P. 23. This action satisfies the requirements of Fed. R. Civ.  
5 P. 23(a) and one or more of the subsections of Fed. R. Civ. P. 23(b).

6 55. The proposed class includes:

7 All persons who:

- 8  
9 (1) made claims under a group accident insurance policy issued by ACE  
10 and/or CHUBB as part of an ERISA benefit plan that contained a  
provision materially identical to that quoted below:

11 **Claims Information.** Within 15 working days of receipt of proof of  
12 loss, We will mail Covered Person a letter or notice explaining why a  
13 claim or any part has not been paid. Also, the letter or notice will  
14 include a list of any information needed to process the claim. When  
We have received this additional information, We have 15 working  
days to either pay or deny the claim. We will explain Our decision to  
the Covered Person.

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16 If We do not meet all of the above conditions, We will pay the  
Covered Person 18% interest per year on the benefits due. This  
17 applies only to benefits due under the Policy for which the above  
procedure has not been followed;

- 18 (2) whose claims were not paid or denied by ACE and/or CHUBB within  
19 the deadline set forth in the provision from the date the company or its  
20 agents received all information listed in the notice or letter to the  
claimant as needed to process the claims; and  
21 (3) who were not paid interest on benefits due and ultimately paid.

22 56. Plaintiff reserves the right to modify or amend the definition of the proposed  
23 class at any time prior to certification of the class by the Court.

24 57. The proposed class is so numerous that joinder of all class members is  
25 impracticable. On information and belief, the proposed class includes hundreds, if not  
26 thousands of persons.

1           58. Common questions of law and fact exist as to all proposed class members and  
 2 predominate over individual questions of law and fact. The common questions include, but  
 3 are not limited to:

- 4           a. Whether ACE and/or CHUBB have a policy, pattern, or practice of failing to  
 5 pay interest due under the terms of its ERISA group accident policies when  
 6 they fail to timely pay or deny the benefits due under the policies;
- 7           b. Whether ACE and/or CHUBB have a policy, pattern, or practice of  
 8 considering “independent medical reviews” as additional information needed  
 9 to process claims under the terms of its ERISA group accident policies for  
 10 purposes of determining the deadlines and entitlements to interest under the  
 11 claims processing provisions of the policies;
- 12           c. Whether “independent medical reviews” can constitute additional information  
 13 needed to process claims under the terms of ACE’s and/or CHUBB’s ERISA  
 14 group accident policies for purposes of determining the deadlines and  
 15 entitlements to interest under the claims processing provisions of the policies,  
 16 where such reviews are not listed in the notice or letters to claimants as such  
 17 needed information; and
- 18           d. Whether ACE’s and/or CHUBB’s failure to pay interest on benefits due under  
 19 their ERISA group accident policies in the event of untimely denials or  
 20 payments breached their contracts and/or violated ERISA, 29 U.S.C. §  
 21 1132(a)(1)(B), where interest is specifically provided for under the terms of  
 22 the policies.

23           59. Plaintiff’s claims are typical of the claims of other members of the proposed  
 24 class, and ACE and/or CHUBB have no unique defenses to Plaintiff’s claims. Like other  
 25 members of the proposed class, Plaintiff was not paid interest by ACE and/or CHUBB on  
 26 benefits due under his ERISA Group Accident Policy even though ACE and/or CHUBB  
 neither paid nor denied those benefits within 15 working days of obtaining all the  
 information listed by ACE in its notices and letters to Plaintiff as needed to process the  
 claim. This failure by ACE and/or CHUBB was based entirely on ACE’s own policies and  
 practices, not by any act or omission on the part of Plaintiff.

60. Plaintiff will fairly and adequately protect the interests of the proposed class. There is no adversity of interest between Plaintiff and the other members of the class, Plaintiff will vigorously pursue the claims on behalf of the class, and Plaintiff is represented by counsel who are competent and experienced in ERISA law and class action litigation.

61. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. There is no special interest of class members in individually controlling the prosecution or defense of separate actions. Plaintiff is unaware of any litigation commenced by or against members of the class concerning this controversy. Concentrating litigation of the claims in this forum is desirable because it will result in a greater uniformity of result and more economical and efficient use of judicial resources and the resources of the parties than dozens or hundreds of individual actions. Finally, there are no special difficulties that would be encountered in the management of the class claims.

62. Moreover, a class action is the superior means of adjudication because, in the absence of class treatment, it is likely that many putative class members will not even recognize that they have claims for interest under their ERISA policy provisions and therefore will be denied any potential recovery or determination of their rights under their policies. As set forth above, ACE and/or CHUBB repeatedly delayed providing Plaintiff and his counsel with a copy of the Policy and repeatedly denied that Plaintiff had any entitlement to interest on their late payment of benefits. It was only through the persistence of counsel over the course of many months that Plaintiff ultimately obtained the Policy and learned of the applicable Interest Clause.

## V. CLAIMS

63. The allegations of the preceding paragraphs are incorporated by reference.

1           64.     ERISA § 502(a)(1)(B) expressly authorizes participants or beneficiaries of an  
2 ERISA plan to bring an action “to recover benefits due to him under the terms of his plan  
3 [and] to enforce his rights under the terms of the plan.”

4           65.     Pursuant to the Interest Clause and Policy provisions quoted above, interest on  
5 benefits due is itself a benefit due under the terms of the plan when ACE and/or CHUBB fail  
6 to timely pay or deny a claim.

7           66.     ACE and/or CHUBB breached their insurance contracts with Plaintiff and the  
8 class members when they failed and refused to pay interest on benefits due after failing to  
9 timely pay or deny claims under their ERISA group accident policies.

10           67.     Plaintiff and the members of the class may bring the present action under  
11 ERISA to recover interest due and to enforce their rights under the terms of their plans.

12                               **VI. RELIEF REQUESTED**

13           WHEREFORE, Plaintiff prays for the following relief:

14           1.     Certification of this case as a class action under Fed. R. Civ. P. 23(a) and one  
15 or more of the subsections of Fed. R. Civ. P. 23(b).

16           2.     An award of damages and recovery of benefits due pursuant to ERISA §  
17 502(a)(1)(B);

18           3.     An award of attorney’s fees and other costs and expenses of litigation  
19 pursuant to ERISA § 502(g)(1) and as otherwise provided by law; and

20           4.     Such other and further relief as this Court deems just and proper.  
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1 DATED this 26th day of November, 2018.

2 SCHROETER GOLDMARK & BENDER

3 *s/ Lindsay L. Halm*

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